

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 471 OF 2007
IN
CRIMINAL APPEAL NO. 180 OF 2006

Sikandar Hussain Shaikh ..Applicant
(Ori.Accused No.2)

versus

State of Maharashtra ..Respondents

Mr. Uday P. Warunjikar for the Applicant -
Original Accused No.2.

Mr. P.A. Pol APP for the Respondents - State.

CORAM : D. G. DESHPANDE, &
SMT. NISHITA MHATRE, JJ.

DATE : 25TH APRIL, 2007.

P.C.

1. Heard Counsel for the applicant - accused
and the learned APP.

2. This is an application for bail. The
accused is convicted along with his father under
Section 302 read with 34 of IPC. Other five accused
are acquitted. Applicant and his father are
convicted because the prosecution has successfully

proved that this accused and his father inflicted as many as 36 blows with iron pipe and sickle respectively. Counsel for the accused contended that accused has merely used iron pipe and according to their defence the deceased died by stoning by the mob. He also argued that the deceased was history sheeter and more than 50 criminal cases were pending against him.

3. The application was strongly opposed by the learned APP on the ground that the court had during the trial granted bail to the present accused and others. Present accused and the others did not comply with the directions and therefore ultimately the bail granted was required to be cancelled by the Order of Justice Khanwilkar and therefore this is not a case for granting bail. Secondly on merits, the learned APP contended with reference to paragraph 20 of the judgment that out of 36 injuries not less than 10 injuries are caused by hard and blunt object. Therefore, according to the learned APP when the deceased was mercilessly beaten and the bail of the applicant - accused was cancelled earlier, this is not a case for grant of bail. He further contended that the deceased has more than 50

criminal cases or 100 cases pending, is no justification to kill him brutally.

4. As against this, the counsel for the accused contended that it may be true that bail granted to the accused was cancelled by this court but thereafter twice the applicant - accused was released on parole or furlough leave, but he surrendered in time and therefore the past history should not come in the way of the applicant - accused.

5. So far as injury part is concerned, in the judgment of the trial court paragraph 20 all the injuries are described in detail. There are in all 36 internal injuries and as many as 10 injuries are by hard and blunt object so it is not that the accused used the iron pipe only once for inflicting blows and rest of the job was done by his father. The application is required to be rejected on merits also. It may be that after the cancellation of bail, when the accused was released twice on parole or furlough leave, he surrendered in time. But, in our opinion, this is not a case for bail. Hence application rejected.

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(SMT. NISHITA MHATRE, J.) (D.G. DESHPANDE, J.)